IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7269 OF 2003

Shri.Gurushant C.Hiremath .. Petitioner
V/s
The State of Maharashtra & Ors. .. Respondents

Mr.N.V.Bandiwadekar for the Petitioner.
Mr.V.P.Malvankar, AGP for the Respondent Nos.1 & 2.

CORAM: DR.S.RADHAKRISHNAN & V.M.KANADE, JJ.

DATE : 21st August, 2006.

P.C.:

1. Heard the learned Counsel for the Petitioner and the learned AGP for Respondent Nos.1 and 2. The Petitioner possesses the qualification of S.S.C.(1959), C.P.Ed. (1965); B.A.(1981); B.P.Ed.(1984); M.A.(1983); M.P.Ed.(1985) & N.I.S. It appears that the Petitioner joined Government service on 15.12.1959 and retired on superannuation in September, 1996. It is stated in the Petition that the entire service record of the Petitioner remained good. The Petitioner was appointed as Instructor in Physical Education under the Central Government on 15.12.1959. It appears that by an order dated 19.10.1976 the Respondent No.2 had informed the Petitioner that in accordance with the Petitioner's letter of acceptance dated 13.10.1976 he was absorbed in the State Government service w.e.f.31.10.1976 on the terms and conditions laid down by the Government and accepted by the Petitioner. The Petitioner was further informed that his pay, etc. will be fixed as per rules in due course. Thereafter, by an order dated 1.9.1981

the Respondent No.2 had informed the Petitioner that the Petitioner shall be treated as a permanent Government servant, and that was followed by a further order dated 30.12.1988 issued by Respondent No.2 thereby informing the Petitioner that as per the Government decision dated 16.2.1987 the Petitioner was absorbed in the State Government service on permanent basis.

2. Petitioner in the instant case belongs to a graduate category. The learned Counsel for the Petitioner has pointed out that this Court has disposed of an identical matter i.e.Writ Petition No.3864 of 1998 by an order dated 30th November, 2005 holding thereby that the Petitioner was entitled to exercise such an option at the time of fixation of pay scale and that the State Government could not preclude the Petitioner from exercising such an option. The learned AGP also does not dispute that the facts and circumstances of the present case are identical to the case mentioned hereinabove.

3. For the similar reasons stated in the aforesaid order dated 30th November, 2005 passed in Writ Petition No.3864 of 1998, Rule is made absolute in the instant case.

4. Respondent Nos.1 and 2 are directed to calculate the requisite dues including the arrears, retirement benefits and the Pension payable to the Petitioner. In

addition to the above dues the Respondent Nos.1 & 2 shall also pay a further sum of Rs.83,000/- to the Petitioner which was recovered from the Petitioner illegally. This shall be done by the Respondent Nos.1 and 2 within a period of eight weeks from today.

(DR.S.RADHAKRISHNAN, J.)

(V.M.KANADE, J.)